

REMARKS

1. Applicant thanks the Examiner for the Examiner's comments which have greatly assisted Applicant in responding.

2. **35 U.S.C. §112.**

(a) The Examiner has rejected Claims 4, 16, 17, 22, 30, 31, 34, 38, 50, 51, 56, 64, 65, and 68 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, the Examiner stated that each claim recites a "proprietary" element and that none of these "proprietary" elements are described in sufficient detail to allow one of ordinary skill in the art to make the invention. The Examiner further stated that only a "proprietary" message unit is even mentioned in the specification among these elements, and then in no detail.

Applicant has deleted the term, proprietary, from the Claims. Applicant points out that by deleting the term, none of the substantive meanings of each of the Claims have been lost.

(b) The Examiner has rejected Claims 34 and 68 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner stated that the claims recite several instances of "and/or", which phrase makes the metes and bounds of the claims unclear. The Examiner further stated that one of ordinary skill in the art would not be able to determine which elements would be necessary to make the inventions set forth in the claims.

Applicant has amended Claims 34 and 68 accordingly.

3. **35 U.S.C. §103(a).**

(a) The Examiner has rejected Claims 1-9, 11-13, 16-23, 25-43, 45-47, 50-57, and [50]59-68 [Applicant is assuming the Examiner incorrectly typed 50 and that 59 was meant] under 35 U.S.C. §103(a) as being unpatentable over Kravitz in view of Gopinathan *et al* (Gopinathan). Specifically, the Examiner stated that Kravitz discloses the invention substantially as claimed including in an internet-based method for facilitating payments between parties, the steps of a)-f). The Examiner further stated that Kravitz does not specifically disclose details of indicating a clearance to make transactions based on risk assessment, and that Gopinathan generally discloses features as recited in the preambles of Applicant's claims in connection with detection of fraudulent transactions, like those of Kravitz. At the end, the Examiner stated that the risk-based approval process of Gopinathan would reduce losses to users of the electronic payment system disclosed by Kravitz, which would make the combination obvious.

Applicant respectfully disagrees. Applicant is of the opinion that Kravitz and the claimed invention are based on two completely different systems. Support is as follows.

Kravitz's teachings. (emphasis added)

Kravitz is concerned with protecting the process that guarantees merchant payment. Kravitz teaches a method of payment in an electronic payment system wherein a plurality of customers have accounts with **an agent**. A customer obtains an authenticated quote from a specific merchant, the quote including a specification of goods and a payment amount for those goods. The customer sends to the agent a single communication including a request for payment of the payment amount to the specific merchant and a unique identification of the customer. The agent issues to the customer **an authenticated payment advice** based only on the single communication and secret shared between the customer and the agent and status information which the agent knows about the merchant and/or the customer. **Th custom r f rewards a p rtion f th paym nt advice to th sp cific**

merchant. The specific merchant provides the goods to the customer in response to receiving the portion of the payment advice.

It is apparent that at the most fundamental level, the Kravitz and the claimed invention are based on two different types of technology. Kravitz enables digital certificates and cryptography to ensure merchant payment. Here, the "agent" is used as an intermediary between the customer and merchant – assuring the merchant that that payment is being made or will be made.

The claimed invention uses SSL and secure methods of storing data **to help process payments for the merchant.** The claimed invention **helps the merchant decide** if the merchant wants to accept the payment, and, if it does, **enables the merchant to electronically process the payment.**

Furthermore, Kravitz's teaches a process that requires the customer to go online and create a payment request within the customer's system. Such process covers a customer-initiated process – where the customer is required to instruct its system to make a payment request, and then forward the payment information to the merchant. The merchant does not receive any customer account information, rather an assured electronic message stating that the payment was made or will be made.

An aspect of the claimed invention is based on the merchant's activities. The merchant gathers customer information and processes the payment. It is possible for the merchant to receive all the customer information – including account information.

Also, Kravitz simply ensures that the payment is made or will be made. The claimed invention, however, helps process the payment. For example, aspects of the claimed invention are involved with the entire flow of money: debiting the customer, crediting the merchant, and, end-to-end dispute management (for example, creating a charge-back against the merchant, and reversals against the customer). As such, the claimed invention protects the rights of both the merchant and the customer.

Finally, Kravitz touches on the process of transferring customer's funds to the merchant making such process incidental to the Kravitz system. Kravitz does not discuss in detail how the execution of an electronic transfer request is accepted by the customer's financial institution, or how the money is transferred to the merchant. Rather, Kravitz focuses on the accounting and recording processes of the transfer of funds.

The claimed invention, on the other hand, focuses on the actual transfer of funds: how a merchant gets money from a customer into the merchant's account. This focus establishes that at the time the invention was made, one of ordinary skill in the art could not gain any knowledge from the Kravitz disclosure to make the claimed invention.

Independent Claims 1 and 35

In view of the above, Applicant is of the opinion that independent Claims 1 and 35 are distinguished from the prior art of record. Specifically, Kravitz does not teach 'electronically transferring funds' but teaches **forwarding a portion of the payment advise message to the specific merchant** (col. 8, lines 35-37). Furthermore, Kravitz does not teach 'authenticating parties', but teaches sending authenticated messages. That is, Kravitz teaches **the customer sends to the agent, in a single authenticated communication, a payment request message** (col. 8, lines 25-26).

Therefore, in view of the above Kravitz does not teach such cited features of the claimed invention. Hence, neither Kravitz nor Gopinathan either alone or in combination teach the claimed invention. Therefore, Applicant submits that Claims 1 and 35 and their dependent claims are distinguished from the prior art of record.

According, in view of the above, Applicant respectfully submits that the Examiner withdraw the rejection of Claims 1 and 35 and their dependent claims.

(b) The Examiner stated that as to Claims reciting a proprietary five second processing time is a design choice and cited that the specification disclosed no particular advantage, is used for a particular purpose or solves a stated problem as compared to prior art systems. The Examiner further stated that one of ordinary skill in the art would reasonably expect similar performance and benefits arising from the use of 3 or 7 second periods, as an example.

Applicant respectfully disagrees. Applicant hopes that by removing the extra term, proprietary will help clarify the claim in describing such aspect of the invention. Also, Applicant is of the opinion, and it is sufficiently described in the Specification, that a five second wait is an optimal time for a system and method to perform proper checks, while at the same time not keeping a customer waiting too long that the customer gets impatient.

(c) The Examiner has rejected Claims 14, 15, 48, and 49 under 35 U.S.C. §103(a) as being unpatentable over Kravitz and Gopinathan in view of *Blazing A Trail in Point of Sale Transaction*. Specifically, the Examiner stated

The rejection of Claims 14, 15, 48, and 49 is deemed moot in view of Applicant's remarks regarding Claims 1 and 35 above. Claims 14, 15, 48, and 49 are dependent upon independent Claims 1 and 35 respectively, which are in allowable condition. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. §103(a).

(d) The Examiner has rejected Claims 10, 24, 44 and 58 under 35 U.S.C. §103(a) as being unpatentable over Kravitz and Gopinathan in view Hilts *et al* (Hilts).

The rejection of Claims 10, 24, 44 and 58 is deemed moot in view of Applicant's remarks regarding Claims 1 and 35 above. Claims 10, 24, 44 and 58 are dependent upon independent Claims 1 and 35 respectively, which are in allowable condition.

Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. §103(a).

CONCLUSION

Based on the foregoing, Applicant considers the present invention to be distinguished from the art of record. Accordingly, Applicant earnestly solicits the Examiner's withdrawal of the rejections raised in the above referenced Office Action, such that a Notice of Allowance is forwarded to Applicant, and the present application is therefore allowed to issue as a United States patent.

Respectfully Submitted,



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MARKED UP VERSION SHOWING CHANGES MADE

In The Specification

On page 15, line 6, please replace "input" with -- inputs --.

Marked up copy of page 6, lines 6-7 follows:

- 4) The user inputs an order ID of the transaction that needs to be stopped or refunded.

On page 17, line 6, please replace "Initiated" with -- initiated --.

Marked up copy of page 17, lines 19-21 follows:

In the case of seller [I]initiated refunds, the merchant can process a seller refund and subsequent ACH credit to the buyer through a message unit interface to the decision engine.

On page 18, line 24, after "processing" please add -- . --.

Marked up copy of page 18, line 24 follows:

Real-time processing.

On page 19, line 3, after "processing)" please add -- . --.

Marked up copy of page 19, lines 1-3 follows:

It can be appreciated that the invention herein can be extended to comprise real-time debit of funds for electronic check transactions, otherwise known as guaranteed hold on funds (in lieu of ACH processing).

On page 19, line 9, please replace "good" with -- goods --.

Clean copy of page 19, lines 6-11 follows:

In the preferred embodiment, once the seller advises the partner that the product has been shipped and the partner has been notified that they have been funded for the transaction, the partner initiates payment to the seller via a seller disbursement file. It can be appreciated that if sellers deliver goods digitally, the process whereby the seller of digital goods advises the partner that the goods have been shipped occurs automatically.

On page 20, line 6, please replace "," with -- . --.

Also, on page 20, line 8, please replace "settled" with -- settled. --.

Marked up copy of page 20, lines 5-8 follows:

- Should the merchant be funded? Default is flag is set to yes, and is no under extreme circumstances[;].
- Number of days funding should be delayed after the day the transaction is settled.

On page 21, line 20, after "transaction" please add -- . --.

Marked up copy of page 21, lines 15-20 follows:

The seller disbursement batch file, the seller disbursement acknowledgement file, and the ACH file are logged for future reference. If the proprietary ACH receives an ACH reject for any reason, the reject is returned to the invention claimed herein and can be passed to the merchant in the beginning of day (BOD) file. This allows for correction and possible resubmission of the transaction.

On page 24, line 7, after "transaction;" please add -- and -- .

On page 24, line 9, please replace "transaction; and" with -- transaction. --.

On page 24, line 10, please delete:[

-].

Marked up copy of page 24, lines 4-10 follows:

The process to initiate transaction reversals or refunds is sometimes due to detected fraud. Two modes of evaluating a message for fraudulent activity, otherwise known as authenticating transactions, are:

- 5 second, or real time response in order to stop a fraudulent transaction; and
- update a 5 second response with output from an intraday fraud detection process, in order to stop a fraudulent transaction[; and]. [
-]

In Th Claims

Please amend Claims 4, 16, 17, 22, 30, 31, 34, 38, 50, 51, 56, 64, 65, and 68 as follows (Marked Up Copy):

4. (amended) The apparatus of Claim 1, wherein means for authentication of parties further comprises means for performing [proprietary] 5 second online decisioning, thereby authenticating said Internet transactions.

16. (amended) The apparatus of Claim 1, wherein means for interfacing with said customer's Web page further comprises:

 means for sending to said customer's Web page results from a [proprietary] 5 second decisioning process, said decisioning process for a registration process, and said decisioning process for credit card and electronic check transactions.

17. (amended) The apparatus of Claim 1, wherein means for interfacing with said customer's Web page further comprises:

 a [proprietary] message unit architecture facilitating online messaging to and from said customer.

22. (amended) The apparatus of Claim 1, wherein means for reporting suspicious activity to said customer, further comprises:

 means for conducting [proprietary] additional corresponding decisioning and [proprietary] intra-day fraud-screening.

30. (amended) The apparatus of Claim 2, wherein means for providing said decisioning solution to said merchant, said decisioning solution indicating clearance to said merchant for said merchant to transact with said at least one buyer, and said decisioning solution based on a determined risk of said at least one buyer, further comprises:

means for performing [proprietary] 5 second online decisioning.

31. (amended) The apparatus of Claim 2, wherein means for providing said decisioning solution to said merchant, said decisioning solution indicating clearance to said merchant for said merchant to transact with said at least one buyer, and said decisioning solution based on a determined risk of said at least one buyer, further comprises:

means for performing additional [proprietary] intra-day fraud-screening.

34. (amended) The apparatus of Claim 25, wherein means for performing risk analysis further comprises:

means for using risk management criteria [that are used for proprietary and/or for conventional programs to] for any of determin[e]ing, quantifying, and[/or] qualifying risk of potential buyers and sellers, and wherein any of amounts of transactions, suspicious personal information of buyer [and/]or seller, behavior of buyer [and/]or seller, conventional statistical information, and mode of operations are determined.

38. (amended) The method of Claim 35, wherein authenticating parties further comprises performing [proprietary] 5 second online decisioning, thereby authenticating said Internet transactions.

50. (amended) The method of Claim 35, wherein interfacing with said customer's Web page further comprises:

sending to said customer's Web page results from a [proprietary] 5 second decisioning process, said decisioning process for a registration process, and said decisioning process for credit card and electronic check transactions.

51. (amended) The method of Claim 35, wherein interfacing with said customer's Web page further comprises:

a [proprietary] message unit architecture facilitating online messaging to and from said customer.

56. (amended) The method of Claim 35, wherein reporting suspicious activity to said customer, further comprises:

conducting [proprietary] additional corresponding decisioning and [proprietary] Intraday fraud-screening.

64. (amended) The method of Claim 36, wherein providing said decisioning solution to said merchant, said decisioning solution indicating clearance to said merchant for said merchant to transact with said at least one buyer, and said decisioning solution based on a determined risk of said at least one buyer, further comprises:

performing [proprietary] 5 second online decisioning.

65. (amended) The method of Claim 36, wherein providing said decisioning solution to said merchant, said decisioning solution indicating clearance to said merchant for said merchant to transact with said at least one buyer, and said decisioning solution based on a determined risk of said at least one buyer, further comprises:

performing additional [proprietary] Intraday fraud-screening.

68. (amended) The method of Claim 59, wherein performing risk analysis further comprises:

using risk management criteria [that for proprietary and/or for conventional programs to] for any of determin[e]ing, quantifying, and[/or] qualifying risk of potential buyers and sellers, and wherein any of amounts of transactions, suspicious personal information of buyer [and/]or seller, behavior of buyer [and/]or seller, conventional statistical information, and mode of operations are determined.